

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

LAWRENCE DEAN HOWELL,

Civil No. 09-1528-ST

Petitioner,

v.

ORDER

JEFF PREMO, Superintendent,
Oregon State Penitentiary,

Respondent.

MARSH, Judge.

Magistrate Judge Janice M. Stewart filed her Findings and Recommendation on April 5, 2011. The matter is now before me pursuant to 28 U.S.C. § 636(b)(1)(B) and Fed. R. Civ. P. 72(b). When either party objects to any portion of the Magistrate's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate's report.

See 28 U.S.C. § 636(b)(1)(C); McDonnell Douglas Corp. v. Commodore

Business Machines, Inc., 656 F.2d 1309, 1313 (9th Cir. 1981),
cert. denied, 455 U.S. 920 (1982).

Petitioner has filed timely objections. I have, therefore, given the file of this case a *de novo* review. I find no error.

Accordingly, I ADOPT the Findings and Recommendation # 31 of Magistrate Judge Stewart. Petitioner's petition for writ of habeas corpus (#1) is DENIED, and this proceeding is DISMISSED, with prejudice. In the event petitioner files an appeal, a certificate of appealability is DENIED on the basis that petitioner has not made a substantial showing of the violation of a constitutional right. See 28 U.S.C. § 2253(c)(2).

IT IS SO ORDERED.

DATED this 16 day of May, 2011.

/s/ Malcolm F. Marsh
Malcolm F. Marsh
United States District Judge